

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

EDITH CAROLYN FRYAR, ET AL.

PLAINTIFFS

V.

CAUSE NO.: 3:08CV63-SA-SAA

SAV-AMIL, LLC, ET AL.

DEFENDANTS

ORDER

Plaintiffs have filed a Motion for Reconsideration of this Court's Order Compelling the Lifting of *Lis Pendens* [92]. As a basis for relief, Plaintiffs claim that they mistakenly believed an appeal would stay execution of the judgment. Plaintiffs alternatively request a stay under Federal Rule of Civil Procedure 62. Plaintiffs also seek clarification from the Court as to how to cancel the *lis pendens*, and whether additional *lis pendens* may be placed on the properties in order to notify third parties of the pending appeal without violating the Court's Order.

The Federal Rules of Civil Procedure govern the procedure in all civil actions and proceedings in the United States district courts. Fed. R. Civ. P. 1. Pursuant to those Rules, a judgment is not stayed unless specifically requested and a bond posted. Fed. R. Civ. P. 62(c). Plaintiffs here have belatedly requested a stay; however, Plaintiffs have failed to post a bond or inquire about a bond. Plaintiffs' mistaken reliance on the filing of a Notice of Appeal to stay the execution of judgment is no excuse for their failure to properly request a stay under Federal Rule of Civil Procedure 62. The Motion for Reconsideration is DENIED.

Plaintiffs are advised to contact the Chancery Court Clerks in the counties in which Plaintiffs have filed *lis pendens* for instruction on how to release those filings. Pursuant to the statute, a copy of this Court's December and April Orders, as well as this Order, should be attached as exhibits to Plaintiffs' letter sent to the Chancery Court Clerks requesting release of the *lis pendens*. Additional

lis pendens filed on the subject properties by the Plaintiffs would violate this Court's Orders.

Plaintiffs are instructed to remove the *lis pendens* filed on the properties immediately. However, because July 5, 2010, is a holiday in most state and federal courts, Plaintiffs are granted until July 13, 2010, to file proof of cancellation of the filings to the Court. Plaintiffs are required to provide proof on the docket to the Court of the cancellation of those filings.

SO ORDERED, this the 2nd day of July, 2010.

/s/ Sharion Aycok
U.S. DISTRICT JUDGE